

16 MAR 2010



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lek (Slovenia) - LUEDEKA, NEELY & GRAHAM, P.C.
P.O. BOX 1871
Knoxville TN 37901

In re Application of	:	
BOGATAJ et al.	:	DECISION ON
Application No.: 10/599,289	:	
PCT No.: PCT/EP2005/003175	:	PAPERS
Int. Filing Date: 24 March 2005	:	
Priority Date: 26 March 2004	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 33705-US-PCT	:	
For: GASTRORESISTANT . . . ACID (LK-423)	:	

This is a decision on applicants' renewed submission under 37 CFR 1.42 filed on 30 December 2009.

BACKGROUND

On 24 March 2005, applicants filed international application PCT/EP2005/003175 which claimed a priority date of 26 March 2004 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 October 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 September 2006.

On 25 September 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 23 February 2009, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 July 2009, the DO/EO/US mailed a second NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 July 2009, the DO/EO/US also mailed a "Letter Regarding a New Notice and/or the Status of the Application" (Form PCT/DO/EO/WITH) indicating that the Notice mailed 23 February 2009 should be disregarded.

On 20 July 2009, applicants filed a submission including several declarations of inventors. The indication that inventor Anton Lavric is deceased was properly treated as a request for status under 37 CFR 1.42.

On 01 October 2009, a decision was mailed refusing applicants' request for status under 37 CFR 1.42. The decision also noted that there was a difference in names in one of the inventors between the published international application (Janez KERK) and the declarations of the inventors (Janez KERC) filed 20 July 2009.

On 30 December 2009, applicants filed the instant submission.

DISCUSSION

Request for Status Under 37 CFR 1.42

The submission filed 30 December 2009 has been reviewed and has been found in compliance with 37 CFR 1.42.

Difference in Names of One of the Inventors

The submission filed 30 December 2009 concerning the spelling of the last name of one of the inventors explains that the spelling of the inventor's name in the declaration (KERC) is accurate and that the spelling in the international application (KERK) is inaccurate. This explanation of the difference in spelling between the international application and the declaration of inventors is accepted and noted for the record.

Declarations of Inventors

The declarations filed 20 July 2009 signed by all of the inventors except the legal representative of the deceased inventor Anton Lavric and the declaration of inventors filed 30 December 2009 signed by the legal representative of Anton Lavric are in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is ACCEPTED.

This application is being forwarded to the National Stage Processing Branch of the Office

of PCT Operations to continue national stage processing of the application in accordance with this decision.

/Daniel Stemmer/

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301